

Riding the Tiger: Using The Power of Emotion and Behavior in Mediation

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Emotion and Behavior: The Difficult Personality

- Aggressive
- Angry
- Hysterical
- Insensitive
- Lying Misleading and False Statements
- Irrational Ideas or Positions

Traditional or Rational Model

- Lawyers, judges, mental health workers, and mediators work from the rational analytic paradigm
 - Problem solving by need, interests
 - Decision making based on BATNA, WATNA
 - Assume both parties are willing and capable of listening to others' positions
 - Common interests promote compromise
 - Separate "people from the problem"

Moving Beyond Reason

- **Core Concerns**
 - **Appreciation (lack thereof)**
 - **Autonomy**
 - **Affiliation**
 - **Status**
 - **Role**
- **Focus on manifestation, not identifying**
 - **Fisher and Shapiro, 2005**

Dynamics in Mediation

Low Conflict-----> High Conflict

(John Wade & Susan Gribben)

- Education is useful
- How other thinks
- Stable coping
- Problem solving skills
- Early process intervention
- Develop & follow a plan
- Seen as Criticism
- Own interest
- Personality Disorder
- Limited skills
- Late intervention
- Parallel/high conflict
- Failure to adhere

Thinking about Emotion and Mediation

■ Old Thinking

- Stop emotions (you can't)
- Ignore emotions (yeah right)
- Deal directly with emotions (tricky)

■ New Thinking

- Obstacles become assets
- We are not rational beings
- Accept emotion and use it

The Biology of Emotions

- **Neuropaths are formed to help us see, hear, think and feel.**
- **Emotion response pathways are developed as well.**
- **Levels of reactivity and responses are biologically based.**
- **Temperament/
environment/experience**

What Drives Emotions

- **Rivalry; winning at any cost**
- **Social Facilitation**
- **Time Pressures/Environment**
- **Biology, “fight or flight”**
- **Hard wired into the brain/body response**

Emotions and Mediation

- Fear of being sold out
- Loosing control (Autonomy)
- Being safe and secure
- Rejection, self worth

Responding to Emotion

- **React carefully**
 - **Calm yourself**
 - **Take stock and consider; is response needed**
 - **Try to identify the emotion or feeling**
- **Respond**
 - **Non verbal**
 - **Verbal**
 - **Affirmation and thanks**

Responding to Emotion

■ Recast

- The conversation and processing are now at least partly about emotions
- Reframe to present positive and legitimate concerns
- Talk about how those can be addressed (rational decision making and self interest)

When it is More Than Emotions

- People who disregard or do not fit the rational model
- Are they driven by personality type
 - Narcissistic
 - Histrionic
 - Borderline personality
 - Anti social personality
- Many have traits which under stress dominate thinking

The High Conflict Personality

- Unable to unravel any aspects of problem
- Neither trust nor respect each other.
- Expanding their story in the presence of the other with initiate defensiveness, counterclaim and escalation.

“Cluster B” Personalities

- Most High Conflict people found in this group.
 - Dramatic
 - Interpersonally imbalanced
 - Conflicts are driven by the personality rather than the issues or money
 - Life long pattern of blaming others
 - Likely to escalate disputes to court; file lawsuits

Who are these people?

- **Narcissist:** "Hi, nice to meet me."
- **Borderline Personality:** "I love you, now go away."
- **Histrionic:** "I don't care what anyone says, I AM ..."
- **Anti Social:** "Rules, we don't need no stinking rules."

Who are they?

- **Borderline complains people always letting them down**
- **Antisocial reports worrier/nags in past relationship**
- **Histrionic reports drama**
- **Narcissistic oblivious to own behavior and feels victimized**

The Warning Signs

- Consistent statements about their needs as more important than anyone else
- Problems are not their fault
- I want it now
- If I don't get my way someone will pay
- Emotional over reactivity
- You feel yourself responding with equal irrationality

Fears and Motivators

- The Histrionic fears being ignored
- The Narcissist fears being inferior
- The Borderline fears abandonment
- The Anti social fears being dominated

Histrionic Personality

- **Drama, Exhibitionism**
- **Use drama, charm, & temper tantrums to replenish their need for affection, attention, and approval**
- **Rely on others primarily for the underlying dependency need**
- **Able to appear confident and self-assured**
- **Beneath guise are shallow feelings & deep insecurities**
- **May fabricate stories or lie for attention**
- **Falsely persuade others they or their children have been victims of horrible abuse**
- **Over reactivity interferes with consistent, stable thinking**

Strategies for Histrionic

- Listen with respect
- Empathize with feelings but not the alleged injustice
- Avoid over reacting to intense emotions
- Limit the number of stories you will let them tell and maintain a balance of interest.

The Histrionic

- Have dramatic presentation and stories
- Over the top mannerisms and speech
- Lack detail and focus, shift topics to avoid reality
- Need to be the center of attention
- Fabricate, lie, fail to remember key facts
- Help them create structure, logic and focus
- Listen respectfully, empathy to feelings; not to alleged injustice/abuse
- Focus on specific tasks that can be accomplished
- Do not over react to stories, abuses, etc.

Narcissistic Personality

- Excessive confidence, arrogance, and exploitive egocentricity
- Primary reliance is on self rather than others
- Real or imagined – behaviors provide a self-image of superior worth
- See themselves as more talented, intelligent and attractive than others
- Financial success provides them admiration they so desperately need
- They think they deserve special treatment
- The rules (including court orders) do not apply to them.
- Need for affection & admiration is so great that criticism is met with outrage
- See using others as what they deserve

Strategies for the Narcissistic

- Listening with empathy will help
- Explain the benefits to them of following your advice
- Focus on their self-interest

The Narcissist

- Expect to be treated special
- React strongly to any criticism
- Fail to react to other's feelings & needs
- Very self centered & absorbed
- Listening with empathy
- Explain the benefits to them of your advice
- Avoid direct criticism & find ways to let them share in decision making

Borderline Personality

- "I hate you don't leave me."
- Mostly women (75%)
- Men in this group often commit domestic abuse
- Fear of abandonment
 - See it in every day neutral situations
- Frequent angry outbursts
- Severe mood swings
- Self-Sabotaging behaviors
- Impulsivity
 - Sexual behavior – Alcohol/Drugs
- Idealization and devaluation of professionals and advocates
- High numbers in litigation

Strategies for Borderline

- Modest matter of fact; responses
- Limit expectations
- Avoid over reacting to intense emotion
- Listen respectfully even to anger and blame

Borderline Personality

- Have mood swings, from too upset to too nice
- Act controlling, overly needy, even seductive
- Idealize helpers then demonize them
- Poor decision making and self sabotage
- Modest matter of fact; responses
- Limit expectations
- Avoid over reacting to intense emotion
- Listen respectfully even to anger and blame

Antisocial Personality

- Mostly male
- Act to preempt expected pain from others
- Both attention seeking and self interest driven
- Socially unacceptable behaviors
- Engage in duplicitous or illegal behaviors: seek to exploit others for self-gain.
- Skeptical of motives of others.
- Desire independence and wish revenge for past perceived injustices
- Irresponsible and impulsive
- Insensitive and ruthless to prevent feared abuse victimization
- Failure to plan ahead
- Aggressiveness and reckless disregard for safety

Strategies for Antisocial

- **Maintain a healthy skepticism**
- **Avoid being swayed by charm or doing favors.**
- **Obtain collaborating information**
- **Explain the consequences of future misconduct**

Antisocial Personality

- Break or ignore rules laws and norms
- Lack remorse or pity
- Need to dominate others
- Appear charming yet deceitful
- Maintain healthy skepticism
- Avoid doing "favors"
- Seek corroboration/confirmation
- Explain consequences but expect to be ignored

Difficult People; General Rules

- Pay attention to words or deeds
- Evoke both strong positive and negative feelings.
- Pay attention to what is going on in your body and mind when dealing with people
- Be proactive: recognize and respond according to type

Common Strategies

- Maintain an appropriate bond
- Fact checking and verification
- Attentive listening
- Set *and maintain* boundaries for emotional support
- Limit time and reactions
- Anticipate the crisis

Maintain the Bond

- Identify the type of bonding issue that causes them to have over compensating relationship styles.
- You do not need to agree with the content to maintain the bond
- Recognize the driving force for the emotions behind the content.
- Maintain the bond; don't fuel the fire.

Listening

Empathy but not Agreement

- Full attention/eye contact
- No distractions
- Avoid interrupting with unnecessary questions at the beginning when they are telling their story to you.
- Just listen for a minute or two. Respond with empathy, including sympathetic body language
- Open body posture, head nods
- Respond with recognition of how that person must feel.
- Be careful to avoid agreeing with the content of what you have been told.
 - This is quickly seen as validation and reinforces the high conflict behavior

Control Emotional Support

- **Maintain consistent levels of emotional support and contact.**
- **Avoid intense involvement one day and cold distance the next**
- **Be careful not to over extend or over react.**

Limits on Time and Reactions

- **Limit your reaction and your available time in a consistent way.**
- **Any sense of pulling away will be seen as rejection and reason to blame, sue, or otherwise make you life hell.**

Anticipate the Crisis

- **Caused by bonding insecurities**
 - Initial phase of the relationship
 - Before and after court hearings
 - Settlement hearings
 - Face to face meetings
- **Take the first crisis call as soon as possible.**
 - Test of Commitment
 - Will determine how secure they feel for the duration of the relationship.
 - If they feel brushed aside, they will need to escalate to get attention.
- **Avoid being too responsive to emotions.**
- **Keep a balanced neutral bond.**
- **Avoid agreeing with the content of the high conflict person's statements.**
- **Support the person, not the complaint**

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